

*cc: BMK*  
**ORIGINAL**

Of Counsel:  
 CRONIN, FRIED, SEKIYA,  
 KEKINA & FAIRBANKS

PATRICK F. McTERNAN 4269-0  
 HOWARD G. McPHERSON 5582-0  
 600 Davies Pacific Center  
 841 Bishop Street  
 Honolulu, Hawaii 96813  
 Telephone: (808) 524-1433  
 Facsimile: (808) 536-2073  
 E-mail: [cfskf@croninfried.com](mailto:cfskf@croninfried.com)

FILED IN THE  
 UNITED STATES DISTRICT COURT  
 DISTRICT OF HAWAII

*SEP 20 2006 AF*

at 3 o'clock and 15 min. P.M.  
 SUE BEITIA, CLERK

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JEANNETTE MILLER,

Plaintiff,

vs.

MAUI OCEAN ACTIVITIES, INC.,  
 THEODORE C. KING, BETH D.  
 KING, in personam, and MOA  
 VESSEL, in rem,

Defendants.

- ) CIVIL NO. 04-00441 BMK
- ) (In Admiralty)
- )
- ) PLAINTIFF'S RESPONSE TO
- ) DEFENDANTS' MOTION TO
- ) DISMISS; CERTIFICATE OF
- ) SERVICE
- )
- ) HEARING
- ) DATE: September 25, 2006
- ) TIME: 2:00 p.m.
- ) JUDGE: Hon. Barry M. Kurren
- )
- ) Trial: October 17, 2006
- ) Judge: Hon. Barry M. Kurren
- )
- )

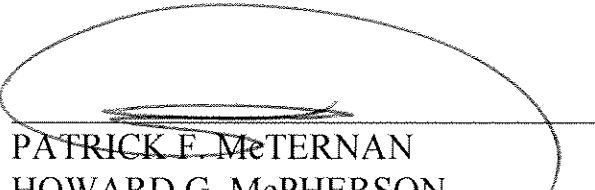
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

The parties have reached an agreement. In exchange for Defendants funding Plaintiff's needed medical care on an immediate basis, and other consideration, Plaintiff has agreed to pursue all of her claims arising from the subject accident in the pending parallel State court lawsuit.

The parties also respectfully ask this Court to stay this case, as opposed to dismissing it, so that the Magistrate Judges may remain involved as mediators.

DATED: Honolulu, Hawaii, September 20, 2006.

Respectfully submitted,



PATRICK F. McTERNAN  
HOWARD G. McPHERSON  
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JEANNETTE MILLER,	) CIVIL NO. 04-00441 BMK
	) (In Admiralty)
Plaintiff,	)
	) CERTIFICATE OF SERVICE
vs.	)
	)
MAUI OCEAN ACTIVITIES, INC.,	)
THEODORE C. KING, BETH D.	)
KING, <u>in personam</u> , and MOA	)
VESSEL, <u>in rem</u> ,	)
	)
Defendants.	)
	)

---

CERTIFICATE OF SERVICE

The undersigned hereby certifies that upon filing, a true and correct copy of the foregoing document will be duly served by means of U.S. Mail, first class postage prepaid to the following:

JOHN O'KANE, ESQ.  
MARK S. HAMILTON, ESQ.  
Frame Formby & O'Kane  
Four Waterfront Plaza  
500 Ala Moana Blvd., Suite 575  
Honolulu, HI 96813

Attorneys for Defendants  
MAUI OCEAN ACTIVITIES, INC.,  
THEODORE C. KING, BETH D. KING,  
and MOA VESSEL

DATED: Honolulu, Hawaii, September 20, 2006.



PATRICK F. McTERNAN  
HOWARD G. McPHERSON  
Attorneys for Plaintiff